



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0689; FRL-9654-02-R5]

**Air Plan Approval; Minnesota; Approval of Infrastructure SIP
Requirements for the 2015 Ozone NAAQS**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving most elements of a State Implementation Plan (SIP) submission from Minnesota regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA proposed this action on May 24, 2022 and received no comments.

DATES: This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0689. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Olivia Davidson, Physical Scientist, at (312) 886-0266 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Olivia Davidson, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0266, davidson.olivia@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information.

On May 24, 2022 (87 FR 31462), EPA proposed to approve most elements of an October 1, 2018, submission from the Minnesota Pollution Control Agency (MPCA) intended to address all applicable infrastructure requirements for the 2015 ozone NAAQS. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule

ended on June 23, 2022. EPA received no comments on the proposal. Therefore, we are finalizing our action as proposed.

II. Final Action.

EPA is approving most elements of a submission from MPCA certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2015 ozone NAAQS. EPA is not acting on the interstate transport requirements of section 110(a)(2)(D)(i)(I) and visibility impairment requirements of section 110(a)(2)(D)(i)(II). EPA's actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2), are contained in the table below.

| Element | 2015 Ozone |
|---|---------------|
| (A) - Emission limits and other control measures. | A |
| (B) - Ambient air quality monitoring/data system. | A |
| (C)1 - Program for enforcement of control measures. | A |
| (C)2 - Minor NSR. | A |
| (C)3 - PSD. | A |
| (D)1 - I Prong 1: Interstate transport - significant contribution to nonattainment. | NA |
| (D)2 - I Prong 2: Interstate transport - interference with maintenance. | NA |
| (D)3 - II Prong 3: Interstate transport - interference with PSD. | A |
| (D)4 - II Prong 4: Interstate transport - interference with visibility protection. | NA |
| (D)5 - Interstate and international pollution abatement. | A |
| (E)1 - Adequate resources. | A |
| (E)2 - State board requirements. | A |
| (F) - Stationary source monitoring system. | A |
| (G) - Emergency powers. | A |
| (H) - Future SIP revisions. | A |
| (I) - Nonattainment planning requirements of part D. | * |
| (J)1 - Consultation with government officials. | A |
| (J)2 - Public notification. | A |
| (J)3 - PSD. | A |
| (J)4 - Visibility protection. | * |
| (K) - Air quality modeling/data. | A |
| (L) - Permitting fees. | A |

| | |
|--|---|
| (M) - Consultation/participation by affected local entities. | A |
|--|---|

In the above table, the key is as follows:

| | |
|----|------------------------------------|
| A | Approve |
| NA | No Action / Separate Rulemaking |
| * | Not germane to infrastructure SIPs |

III. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 25, 2022.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (e) is amended by adding an entry at the end of the table for “Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS” to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(e) * * *

EPA--APPROVED MINNESOTA NONREGULATORY PROVISIONS

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approved date | Comments |
|--|--|--|--|--|
| * * * | * * * | * * | | |
| Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS | Statewide | 10/1/2018 | [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION] | Fully approved for all CAA elements except (D)(i)(I) and the visibility protection requirements of (D)(i)(II). |
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